

November 25, 2008 Minutes of Bigfork Land Use Advisory Committee

Committee members present: Darrel Coverdell, John Bourquin, Shelley Gonzales, Gary Ridderhoff, Paul Guerrant, Charles Gough, Al Johnson and 17 members of the public.

Chairman Gonzales called the meeting to order at 4: 08 pm.

The Agenda was adopted as amended with the addition under New Business: Support letter for Bigfork Stormwater Project (m/sc Bourquin/Johnson).

The minutes for October 30, 2008 were approved as emailed. (m/sc Gough/Ridderhoff)

Chairman Gonzales read the “ground rules” of BLUAC meetings.

ADMINISTRATOR’S REPORT:

A. Sign-in Sheet: Reminder to the public of the availability of BLUAC minutes through email and BSC website bigforksteering.org/. Hanson handed out copies of the updated Subdivision Regulations received from the Planning Office. The Planning Office will provide BLUAC members with a loose-leaf binder with all updated regulations in January 2009.

B. Application status: Flathead Planning Board approved the Timber Bay Subdivision Plat unanimously. The Shaggagi application is not on the agenda for the Flathead Board of Adjustment meeting on December 2, 2008.

APPLICATIONS:

A. 1) A request to amend the Bigfork Land Use Plan Map submitted by SNAF, LLC. The applicant wishes to change the zoning designation from C (Commercial) and UR (Urban Residential) to VRC (Village Resort Commercial). The properties are located on the south side of Holt Drive and west of Highway 35.

2) A Zone Change request in the Bigfork Zoning District by SNAF, LLC, from B-3 (Community Business) on lots 1-3, North Shore Heights and from R-3 (One-Family Limited Residential) on lots 4 and 5 to CVR (Commercial Village Resort). The properties are located on the south side of Holt Drive and west of Highway 35.

Staff: Alex Hogle reminded BLUAC members the application was on the agenda for the October 30, 2008 meeting and the applicant had chosen to withdraw. Due to timing, the staff report is not yet completed. Hogle identified the subject property on a map of the Bigfork Zoning District current Land Use Map.

The Planning Office has determined the request for zone change by the applicant would more appropriately fit the designation of VRC (Village Resort Commercial) defined in the 1993 BNP as: “Provides for two or more categories of commercial uses within the same development, intended to maintain intimacy and human scale in a village setting. For example, the ground floor is reserved for retail and second floors be permitted residential.” The VRC classification and zone change to CRV is more in keeping with the current village area, which is the only area in the BNP where the classification is identified. Changing the map classification would enable the CVR zone change requested in the second application by SNAF, LLC. Definition of CVR: “A district which provides for several categories of commercial and residential uses within the same development, constrained by the need to

maintain intimacy and human scale in a village setting. The overall goal is to preserve the renewable resources and enhance the unique qualities and characteristics of rural communities.”

Johnson: So I understand the process, the Land Use Designation from C to VRC and UR to VRC must change before the Zone Change from B-3 to CVR and R-3 to CVR can be accomplished? A: Correct. The order of review is important. These are separate processes.

Gonzales: You stated the change to VRC is a logical extension from the village area, across Hwy 35? A: Correct. The village area is the only CVR zoning implemented by the BMP. The theme and character of this application is the same.

Guerrant: Is this spot zoning with the relationship of the distance between downtown and the SNAF proposal? A. (Alex) It does not qualify as spot zoning. There are several parcels, rather than a single parcel. (BJ) the Critical difference is the request for a master plan amendment. We agree that the application keeps the character of the village and is a logical extension of commercial development in this area. Spot zoning is defensible by amending the map.

Bourquin: Am I correct that you are not concerned about spot zoning? Does this open the door for precedent? A: The applicant has approached the public first which is a critical element to a map amendment. It does not open the door for precedent.

Gough: Does the Planning Office support both applications? A: Correct. We did not support the previous application because the request for Commercial zoning opened the door for development not in keeping with the spirit of the BNP (fast food restaurants, strip development, etc.). This application is in keeping with Policy #8 of the BNP “Establish a mixed-use zoning category to be compatible with the “village”, subject to approval of a specific plan to be prepared solely for that location.” The key here is “prepared solely for that location.” And, under CVR definition “The overall goal is to preserve the renewable resources and enhance the unique qualities and characteristics of rural communities.”

Bourquin: Will this come back to us for Subdivision Review? A: Probably not. They are not subdividing but would be developing under the permitted uses of the CVR classification. MCA 76.1.601 provides the basis for the Flathead County Growth Policy and the Bigfork Growth Policy and this is the criteria used to review the compatibility of the project. The benefits of CVR over commercial is that CVR is more specific to uses. A Commercial zone change would allow the applicant to change plans after the zone change is made.

Johnson: I looked at a comparison of permitted uses for CVR and B-3. CVR is more compatible to Bigfork. This is a key entryway to Bigfork, almost a defining entry point.

Ridderhoff: I’m concerned we will not see any more plans. A: Condos are permitted uses. A specific review is not required. The intent of the applicant is to change the whole scheme of access to a more functional access on Holt Drive. They are not required to make this improvement.

Guerrant: I believe this to be a detriment to lot 6 with headlights entering the development at all hours. This is our last chance for public review. A: The planning Board will be another opportunity for public review. The developer anticipates this problem and plans the design to minimize this impact.

Gough: Has notification been mailed to adjacent property owners? Have you received any responses to the notice? A: Not as of this date. Mailing is scheduled for two weeks prior to the Planning Board meeting.

Johnson: My concern is the present B-3 zoning could have a domino affect. Would CVR have a tendency to a domino affect? A: Not necessarily. CVR pertains to a specific area. As to B-3, we would not recommend approval into urban residential. The land use plan also comes into play. We are more concerned about B-3 zoning spreading onto Harbor View.

Bourquin: Is there a timing element for a map amendment and zone change? Isn't there a 30-day notice of an amendment? A: A Zone Change has a required 30-day protest period (Commissioners) and the applications will run concurrently.

Guerrant: BJ you were involved in this mapping process. Are we doing this in a vacuum after all the public meetings in the past? A: The applicant has engaged in public involvement and discussed the project with the BSC, BLUAC and neighbors prior to this meeting. There will be three public meetings with regard to these applications, BLUAC, Planning Board and the Commissioners. BJ: I want to clarify that notice did go out to property owners prior to this meeting. Alex: Notice was mailed November 19, 2008.

Johnson: The advantages I see to this change are we get three lots out of B-3 zoning and get a more restrictive and neighborly designation. I hope we can make this work. This is a key piece of property.

APPLICANT: Louise Tidwell spoke on behalf of the applicant. The goals are for a beautiful project. To minimize impact. We started talking to neighbors in January 2008 and have kept neighbors updated throughout this process and feel we have addressed all their concerns. We have made our presentation to the BSC, BLUAC and to the Chamber of Commerce. We are aware of stormwater issues and are making the effort to keeping it "green".

Guerrant: Did you discuss with the neighbors about the difference in zone change? What were the concerns from neighbors? I would hope you would address down lighting and the impact on neighbor's homes. A: We initially discussed the change to B-3. On November 5, 2008, we talked to all the neighbors about the changes we needed to make to make the project work. They have heard consistently what our plans were. The concerns were mostly about access and public safety, objecting to fast food restaurants and preserving the view from the property. There were no concerns concerning to changing the access further down Holt Dr. We will definitely keep you informed as the process moves along. We will be preserving as many trees as possible on the site and keeping it as "green" as possible. We feel sure the final design will include a buffer to neighboring homes.

Gonzales: The purchase agreement for Lot 5 is subject to B-3 zone change. What will happen there? A: We will re-negotiate with the property owner.

Narda Wilson (Marquardt Surveying) stated the application includes specific dates of contact with property owners. We are still keeping with the original plan for development presented at a previous meeting. The message to surrounding property owners has been consistent. B-3 would allow less appropriate uses and CVR fits our project better. As to landscaping, the county has standards and green belt requirements. In the spirit of that, we will include fencing or landscaping buffers between surrounding properties. We understand the concerns regarding lighting. As to outdoor lighting, I worked with Kalispell and Whitefish to develop their dark skies ordinances. Full cut-off lighting on this project will be addressed. We will be back as a visitor to BLUAC. We have an ethical responsibility to do that. As to spot zoning, there are three criteria to identify spot zoning. 1. Does not comply with the master plan. 2. Benefits a single property owner. 3. Significant difference in use.

Gonzales: What is the status of LEED project? A: I will let John Thomas address that.

John Thomas, from A-Z Engineering, stated LEED is still in process. We hope to have the standing if at all possible. LEED encourages neighborhood meetings. The access problem at the intersection of Hwy 35 and Holt Dr. would be resolved with the purchase of the two additional lots. The elevation is much better at Lot 5. We are doing a traffic study now but do not think traffic will be significantly increased.

Guerrant: Will you put power lines underground? Do you own all the lots? A: We're not sure at this time. These are heavy-duty lines and it would not be cheap. Lot 5 is still contingent on a zone change.

Bourquin: On page 17 of your application, you talk about a 10-year build out. A: That's a process to quantify the impact of build out and how you prepare traffic studies.

Ridderhoff: Is this approximate footprint? Will the view of the lake from Hwy 35 be obstructed? A: Correct, an approximation. Holt Dr. is about 8-10' higher. We will work with a terraced concept. Along the bluff, where the view is best, buildings will be two stories. Looking from the road only the top story will be in visual line. The view from 35 will not be obstructed. Set backs will mitigate that and the perceived height will be lower.

Bourquin: I'm still concerned about the public process for the map amendment, and not convinced the neighborhood meetings are considered public meetings. Should we have a waiting period before addressing the zone change? A: (BJ) The statutory legal public meetings will have been done. The ethical obligation is subjective. This applicant has done more than most in informing the public. Holding to arbitrary standards opens many doors to litigations. Public hearings can be run concurrently.

PUBLIC AGENCIES: None present.

PUBLIC COMMENT:

Gary Simmons: I live at 150 Beach Road and attended the neighborhood meeting last month. They have addressed all our concerns. I think this project is a benefit to the community. There was a lot more traffic at the bowling alley every day of the week. I support this project. The Homeowners association on Harbor Heights would have to approve a spreading of commercial use in that area.

Dave Knauth: I live at 120 Harbor Heights just below the bowling alley. The applicant has addressed to my satisfaction the concerns of noise, view obstructions, stormwater abatement and traffic. I support the project.

Flo Wight: I live at 188 Beach Road and think this project would be a great improvement over the bowling alley. There will be less noise and bar talk, less lights and night traffic compared to the bowling alley. It would be a pleasant sight and we won't have the big signs. I think our entrance to Bigfork will improve greatly. As to the different access, as long as emergency vehicles can access the area it would be an improvement over the present access.

Sandra Broesel: We own Lot 5 and when we bought our property most of the homes on Holt Dr. were single-family homes. Now, they have been converted to 4-plexes and rentals. We see moving vans all the time. The traffic on the new access should not affect Lot 6 as there are few windows facing that side of the lot. This would be a good change for the area. There would be less noise than the bowling alley and the overall appearance would be nicer.

Diane Kautzman: I work with the Chamber of Commerce and went to the neighborhood meeting. This would be a great addition to Bigfork and think they have done a wonderful job.

Pat Wagner: Several questions. Have you contacted and received comments from Chief Harris regarding the access? How many units (what density) will there be? Do you have water service? The steep area could be a problem for stormwater issues?

Carroll Blend: I live on Parkway. We now have the bowling alley on the east and residential on the west (displayed a drawing) to look at a different perspective. The shops on Electric Avenue have two stories where people live upstairs.

STAFF: To answer the questions raised, the County has received no comments from the Fire Dept. The Road and Bridge department views a new access favorably. The BF Water & Sewer Dept. is currently working with the applicant. Without specific plans we cannot anticipate the density. Different types of uses have different parking requirements. With setbacks from neighboring properties there will be the possibility of 80% lot coverage. This will be complex and highly dense.

Wilson: There will be some cutting but all runoff has to be contained on site by DEQ standards. There are higher standards if we receive LEED approval. As to sewer hook up, the will serve letter will be contingent on final plans.

Guerrant: I'm still concerned about the map amendment. The BSC spent a lot of time developing the BNP and map. I still think this needs more review on the community level. I'm not convinced tonight is sufficient for community review and that we have done due diligence.

Bourquin: The map we are concerned goes back to 1993.

Gough: No further comments.

Ridderhoff: No further comments.

Gonzales: The future map needs more adjustment and our community is in a constant state of flux. The map is not a perfect document.

Coverdell: No further comments except that I appreciate the applicant's offer to come back and talk to us.

Gough: Move to recommend approval to amend the Bigfork Land Use Plan Map (south side of Holt Drive and west of Highway 35) from C (Lot 1) and UR (Lots 2-5) to VRC. Bourquin seconded the motion. Motion passed 5-1 (Guerrant). (Johnson left to attend to his job)

Gough: Move to recommend approval of the Zone Change (same area) from B-3 (Lots 1-3) and R-3 (Lots 4-5) to CVR with the request to pay special attention to full cut-off lighting, buffering neighborhood properties and parking compliant with CVR based on density. Bourquin seconded the motion. Motion passed unanimously.

The application will be heard by the Flathead County Planning Board, Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on December 17, 2008, at 6:00 p.m.

Chairman Gonzales called a 5-minute break.

B. A request by Tom Brown for a Zoning Variance to property within the Bigfork, SAG-10 (Suburban Agricultural) Zoning District. The applicant is requesting a variance to Section 3.07.040 (1) of the Flathead County Zoning Regulations, which requires the minimum lot area to be ten acres. The applicant wishes to deed approximately ½ acre to an adjoining property owner as that portion of the subject parcel is separated by a road. The property is located at 1173 Cygnet Trail.

Staff: Andrew Hagemeyer presented the application by Tom Brown on behalf of Karen Burg and Daniel Shannon. The property on Swan Hill Drive is a 10-acre parcel and they are requesting a boundary adjustment with the neighboring parcel. We look at all 8 criteria including hardship and determined there is no hardship. It is common across the county to have roads and easements splitting parcels. The area in question is about ½ acre. The situation is not peculiar and not allowed within subdivisions. Under Zoning Regulation section 2.05.030 Item 3; the request does not meet 6 of 8 criteria. The Planning Office recommends denial of request.

Guerrant: It looks like this can be achieved through an easement. There was no mistake in platting. Isn't it possible to write an easement agreement very specifically to the purpose? A: We make that point in E of criteria. One lot is already non-conforming and this would create two non-conforming lots.

Gonzales: Are there any liability issues with an easement? We note the applicant is not present. A: That would be an attorney's question. It might be possible to write an easement to remove certain liabilities.

PUBLIC COMMENT:

None

Coverdell: They should be able to do this with an easement:

Guerrant: Move to recommend denial. Gough seconded the motion. Motion passed 5-1 (Coverdell).

The application will be heard by the Flathead County Board of Adjustment, Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on December 2, 2008, at 6:00 p.m.

OLD BUSINESS:

A. Bigfork Neighborhood Plan/Planning Board Workshop: A workshop is scheduled with the Flathead County Planning Board on Thursday, December 11, 2008 at 6:00 p.m. at the Earl Bennett Building. John Bourquin and Gary Ridderhoff will be unable to attend due to conflicts.

B. County Attorney re: Sign Violations: Chairman Gonzales reported she has not heard from Deputy County Attorney Tara Fugina. She will follow up.

C. Review Nov. 13, 2008 BNP workshop: The committees (BSC & BLUAC) considered some rewording of several policies. Gonzales will talk to BJ regarding map changes.

NEW BUSINESS:

A. BSAC Support Letter: Gough moved the committee approve the draft letter in support of DEQ 319 funding for the Bigfork Stormwater Advisory Committee. Bourquin seconded the motion. Motion passed unanimously.

PUBLIC COMMENT:

None

Meeting was adjourned at 7:10 p.m.

Sue Hanson

BLUAC Secretary

